

REMARKS

Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59 are pending in this application. Applicant has cancelled Claims 8, 10, 13, 14, 19, 30, 33, 34, and 41-44, without prejudice. Applicant has added new Claims 48-59. Applicant has amended Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38. Applicant has amended independent Claims 1 and 21 so as to more clearly distinguish the present invention, as defined by independent Claims 1 and 21, over the prior art. Applicant has also amended Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38 so as to place each of said Claims in better form for consideration.

Applicant respectfully submits that the newly added Claims 48-59 do not contain new matter. Applicant further submits that the amendments to Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38 do not contain new matter.

Applicant has also deleted the Abstract of the Disclosure and has substituted therefore the new Abstract of the Disclosure which is attached hereto on a separate sheet. Applicant respectfully submits that the new Abstract of the Disclosure does not contain new matter.

Applicant gratefully acknowledges the Examiner's time and courtesy extended during the Examiner Interview of August 23, 2005. Applicant submits herewith Applicant's Statement of the Substance of the Examiner Interview for entry in this case.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance and action to that end is respectfully requested.

I. THE OBJECTION TO CLAIM 19:

The Examiner objected to Claim 19 under 37 C.F.R. §1.75 "as being a substantial duplicate of claim 13". As noted above, Applicant has cancelled Claims 13 and 19, without prejudice. In view of Applicant's cancellation of Claims 13 and 19, Applicant respectfully requests that the Examiner's objection to Claim 19 be withdrawn.

II. THE 35 U.S.C. §103 REJECTIONS:

The Examiner asserts that Claims 1-4, 7-10, 13, 15, 18-19, 21-24, 27-30, 33, 35, 40, 41, 43, and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over GarageScape (hereinafter "the GarageScape reference"). The Examiner further asserts that Claims 5, 12, 16, 17, 32, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as applied to Claim 1 and further in view of Official Notice. The Examiner further asserts that Claims 14 and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as applied to Claim 1 or Claim 21 and further in view of Official Notice. The Examiner appears to also assert that Claim 25 is rejected as being unpatentable over the GarageScape reference and further in view of Official Notice. The Examiner also asserts that Claims 11 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as applied to Claim 1 and further in view of Lancellotti, U.S. Patent No. 3,716,234 (Lancellotti). The Examiner further asserts that Claim 37 is rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference and Lancellotti as applied to Claim 36 and further in view of Miller, et al. U.S. Patent No. 3,452,964 (Miller). The Examiner also asserts that Claim 39 is rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as

applied to Claim 38 and further in view of Miller. The Examiner also asserts that Claim 42 is rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as applied to Claim 41 and further in view of Miller. The Examiner further asserts that Claim 44 is rejected under 35 U.S.C. §103(a) as being unpatentable over the GarageScape reference as applied to Claim 43 and further in view of Miller. The Examiner also asserts that Claims 1 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jackan, U.S. Patent No. 4,934,696 (Jackan). Lastly, the Examiner asserts that Claims 46 and 47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jackan as applied to Claims 1 or 21 and further in view of Official Notice.

As noted above, Applicant has cancelled Claims 8, 10, 13, 14, 19, 30, 33, 34, and 41-44, without prejudice. Applicant has added new Claims 48-59. Applicant has amended Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38. Applicant has amended independent Claims 1 and 21 so as to more clearly distinguish the present invention, as defined by independent Claims 1 and 21, over the prior art. Applicant has also amended Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38 so as to place each of said Claims in better form for consideration.

Applicant respectfully submits that the newly added

Claims 48-59 do not contain new matter. Applicant further submits that the amendments to Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38 do not contain new matter.

Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59, is patentable over the prior art.

IIA. THE PRESENT INVENTION, AS DEFINED BY CLAIMS 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, AND 45-59, IS PATENTABLE OVER THE PRIOR ART:

Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59 is patentable over the prior art. Of the pending Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59, Claims 1, 21, and 48, are independent Claims. As noted above, the Examiner asserts that independent Claims 1 and 21 are unpatentable under 35 U.S.C. §103(a) in view of the GarageScape reference. The Examiner also asserts that independent Claims 1 and 21 are unpatentable under 35 U.S.C. §103(a) in view of Jackan.

As noted above, Applicant has cancelled Claims 8, 10, 13, 14, 19, 30, 33, 34, and 41-44, without prejudice. Applicant has added new Claims 48-59. Applicant has amended Claims 1, 5,

6, 7, 12, 21, 25, 26, 27, 32, 36, and 38. Applicant has amended independent Claims 1 and 21 so as to more clearly distinguish the present invention, as defined by independent Claims 1 and 21, over the prior art. Applicant has also amended Claims 1, 5, 6, 7, 12, 21, 25, 26, 27, 32, 36, and 38 so as to place each of said Claims in better form for consideration.

Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58 depend either directly or indirectly from independent Claim 1. Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59 depend either directly or indirectly from independent Claim 21. Claims 49, 50, 51, 56, and 57 depend directly from independent Claim 48.

Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59, is patentable over the prior art.

IIA(1). THE PRESENT INVENTION, AS DEFINED BY CLAIMS 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, 45-47, 52-55, 58, AND 59 IS PATENTABLE OVER THE GARAGESCAPE REFERENCE:

Applicant respectfully submits that Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, 45-47, 52-55, 58, and 59 is patentable over the GarageScape reference. In particular, Applicant submits that the present invention of, and as defined by, independent Claims 1 and 21 is patentable over the GarageScape reference as Applicant invented the subject matter of

each of independents Claim 1 and 21 before the effective date of the GarageScape reference. In this regard, Applicant respectfully swears in back of the GarageScape reference.

The effective date accorded to the GarageScape reference by the Examiner is October 12, 1999. Applicant respectfully submits that Applicant invented the subject matter of each of independent Claims 1 and 21 prior to October 12, 1999, and therefore, prior to the effective date of the GarageScape reference.

Applicant submits herewith a Declaration Under 37 C.F.R. §1.131, along with the Exhibits identified therein, swearing back of the GarageScape reference. Applicant's Declaration Under 37 C.F.R. §1.131 and the supporting Exhibits provides Applicant's statements attesting to, and evidencing, Applicant's conception of the invention of the subject matter of each of independent Claims 1 and 21 before the effective date of the GarageScape reference, and Applicant's use of due diligence to constructively reduce to practice Applicant's invention of the subject matter of each of independent Claims 1 and 21 by filing a U.S. Provisional Patent Application. Applicant constructively reduced to practice the invention of Claims 1 and 21 by filing U.S. Provisional Patent Application Serial No. 60/190,381 on March 17, 2000.

Applicant respectfully requests that Applicant's Declaration Under 37 C.F.R. §1.131, along with the Exhibits identified therein, be entered in the above-identified application.

In view of Applicant's submission of the above-referenced Declaration Under 37 C.F.R. §1.131, along with the Exhibits identified therein, so as to swear in back of the GarageScape reference, Applicant respectfully submits and requests that the rejection of independent Claims 1 and 21, in view of the GarageScape reference, should be withdrawn.

In view of the foregoing, Applicant respectfully submits that the present invention, as defined by independent Claims 1 and 21, is patentable over the GarageScape reference.

Applicant further submits that Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58, which depend either directly or indirectly from independent Claim 1, so as to include all of the limitations of independent Claim 1, are also patentable over the GarageScape reference as said Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58 depend from allowable subject matter.

Applicant further submits that Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59, which depend either directly or

indirectly from independent Claim 21, so as to include all of the limitations of independent Claim 21, are also patentable over the GarageScape reference as said Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59, depend from allowable subject matter.

In view of the foregoing, Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, 45-47, 52-55, 58, and 59, is patentable over the GarageScape reference. In view of the foregoing, Applicant respectfully requests that the rejection of independent Claims 1 and 21, and the respective pending Claims which depend therefrom, be withdrawn.

IIA(2). THE PRESENT INVENTION, AS DEFINED BY CLAIMS 48-51, 56, AND 57, IS PATENTABLE OVER THE GARAGESCAPE REFERENCE:

Applicant respectfully submits that the present invention, as defined by Claims 48-51, 56, and 57, is patentable over the GarageScape reference. Applicant respectfully submits that the present invention, as defined by independent Claim 48, is patentable over the GarageScape reference.

Applicant respectfully submits that the GarageScape reference does not disclose or suggest a basketball backboard and hoop apparatus, comprising a basketball backboard and hoop assembly, further comprising a basketball backboard, and

a hoop, a support arm for supporting the basketball backboard and hoop assembly, and a guiding device or a support element, wherein the support arm is longitudinally moved along the guiding device or the support element, and further wherein the basketball backboard and hoop assembly is moved in the direction of the longitudinal movement of the support arm from a first position inside a structure to a second position outside the structure, wherein the basketball backboard and hoop assembly is moved to an in-use position, and further wherein the basketball backboard is deployed to an upright position subsequent to the basketball backboard and hoop assembly being moved outside the structure, all of which features are specifically recited features of independent Claim 48.

Applicant respectfully submits that the GarageScape reference does not disclose or suggest the recited support arm, for supporting the recited basketball backboard and hoop assembly, which recited support arm is longitudinally moved along the recited guiding device or the recited support element and the recited basketball backboard and hoop assembly which is moved in the direction of the recited longitudinal movement of the recited support arm from a first position inside a structure to a second position outside the structure.

Applicant further submits that the GarageScape

reference does not disclose or suggest the recited basketball backboard and hoop assembly which is moved to an in-use position and the recited basketball backboard which is deployed to the recited upright position subsequent to the recited basketball backboard and hoop assembly being moved outside the structure.

In view of the foregoing, Applicant respectfully submits that the GarageScape reference does not disclose or suggest many of the specifically recited features of independent Claim 48. In view of the foregoing, Applicant respectfully submits that the present invention, as defined by independent Claim 48, is patentable over the GarageScape reference. Applicant further submits that Claims 49-51, 56, and 57, which Claims 49-51, 56, and 57 depend directly from independent Claim 48, so as to include all of the limitations of Claim 48, are also patentable as said Claims 49-51, 56, and 57 depend from allowable subject matter. In view of the foregoing, allowance of Claims 48-51, 56, and 57 is respectfully requested.

IIB. THE PRESENT INVENTION, AS DEFINED BY CLAIMS 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, AND 45-59, IS PATENTABLE OVER JACKAN.

Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59, is patentable over Jackan.

IIB(1). THE PRESENT INVENTION, AS DEFINED BY CLAIMS 1-7, 9, 11, 12, 15-18, 20, 46, 52, 53, AND 58, IS PATENTABLE OVER JACKAN:

Applicant respectfully submits that the present invention, as defined by Claims 1-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58, is patentable over Jackan. Applicant respectfully submits that the present invention, as defined by independent Claim 1, is patentable over Jackan.

Applicant respectfully submits that Jackan does not disclose or suggest a basketball backboard and hoop apparatus, comprising a basketball backboard and hoop assembly, a support arm for supporting the basketball backboard and hoop assembly, and a support element, wherein the support element provides support for the support arm, wherein the support arm is longitudinally moved along the support element, and further wherein the basketball backboard and hoop assembly is moved in the direction of the longitudinal movement of the support arm along a horizontal plane or a nearly horizontal plane from a first position inside a structure to a second position outside

the structure, and further wherein the basketball backboard and hoop assembly is moved to an in-use position, all of which features are specifically recited features of independent Claim 1.

Applicant submits that Jackan does not disclose or suggest the recited support arm which is longitudinally moved along the recited support element, and the recited basketball backboard and hoop assembly which is moved in the direction of the recited longitudinal movement of the recited support arm along a horizontal plane or a nearly horizontal plane from a first position inside a structure to a second position outside the structure. Applicant further submits that Jackan does not disclose or suggest the recited basketball backboard and hoop assembly which is moved to the recited in-use position.

In view of the foregoing, Applicant respectfully submits that Jackan does not disclose or suggest many of the specifically recited features of independent Claim 1. In view of the foregoing, Applicant respectfully submits that the present invention, as defined by independent Claim 1, is patentable over Jackan. Applicant further submits that Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58, which Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58 depend either directly or indirectly from independent Claim 1, so as to include all of the limitations

of Claim 1, are also patentable as said Claims 2-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58 depend from allowable subject matter. In view of the foregoing, allowance of Claim 1-7, 9, 11, 12, 15-18, 20, 46, 52, 53, and 58 is respectfully requested.

IIB(2). THE PRESENT INVENTION, AS DEFINED BY CLAIMS 21-29, 31, 32, 35-40, 45, 47, 54, 55, AND 59, IS PATENTABLE OVER JACKAN:

Applicant respectfully submits that the present invention, as defined by Claims 21-29, 31, 32, 35-40, 45, 47, 54, 55, and 59, is patentable over Jackan. Applicant respectfully submits that the present invention, as defined by independent Claim 21, is patentable over Jackan.

Applicant respectfully submits that Jackan does not disclose or suggest a basketball backboard and hoop apparatus, comprising a basketball backboard and hoop assembly, a support arm for supporting the basketball backboard and hoop assembly, and a guiding device, wherein the support arm is longitudinally moved along the guiding device, and further wherein the basketball backboard and hoop assembly is moved in the direction of the longitudinal movement of the support arm through or along a horizontal plane or axis or a nearly horizontal plane or axis, from a first position inside a structure to a second position outside the structure, and further wherein the basketball

backboard and hoop assembly is moved to an in-use position, all of which features are specifically recited features of independent Claim 21.

Applicant submits that Jackan does not disclose or suggest the recited support arm which is longitudinally moved along the recited guiding device and the recited basketball backboard and hoop assembly which is moved in the direction of the recited longitudinal movement of the recited support arm through or along a horizontal plane or axis or a nearly horizontal plane or axis from a first position inside a structure to a second position outside the structure. Applicant further submits that Jackan does not disclose or suggest the recited basketball backboard and hoop assembly which is moved to the recited in-use position.

In view of the foregoing, Applicant respectfully submits that Jackan does not disclose or suggest many of the specifically recited features of independent Claim 21. In view of the foregoing, Applicant respectfully submits that the present invention, as defined by independent Claim 21, is patentable over Jackan. Applicant further submits that Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59, which Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59 depend either directly or indirectly from independent Claim 21, so as to include all of the limitations of

Claim 21, are also patentable as said Claims 22-29, 31, 32, 35-40, 45, 47, 54, 55, and 59 depend from allowable subject matter. In view of the foregoing, allowance of Claims 21-29, 31, 32, 35-40, 45, 47, 54, 55, and 59 is respectfully requested.

IIB(3). CLAIMS 48-51, 56, AND 57 ARE PATENTABLE OVER JACKAN:

Applicant respectfully submits that the present invention, as defined by Claims 48-51, 56, and 57, is patentable over Jackan. Applicant respectfully submits that the present invention, as defined by independent Claim 48, is patentable over Jackan.

Applicant respectfully submits that Jackan does not disclose or suggest a basketball backboard and hoop apparatus, comprising a basketball backboard and hoop assembly, further comprising a basketball backboard, and a hoop, a support arm for supporting the basketball backboard and hoop assembly, and a guiding device or a support element, wherein the support arm is longitudinally moved along the guiding device or the support element, and further wherein the basketball backboard and hoop assembly is moved in the direction of the longitudinal movement of the support arm from a first position inside a structure to a second position outside the structure, wherein the basketball backboard and hoop assembly is moved to an in-use position, and further wherein the basketball backboard is deployed to an

upright position subsequent to the basketball backboard and hoop assembly being moved outside the structure, all of which features are specifically recited features of independent Claim 48.

Applicant submits that Jackan does not disclose or suggest the recited support arm, for supporting the recited basketball backboard and hoop assembly, which recited support arm is longitudinally moved along the recited guiding device or the recited support element. Applicant further submits that Jackan does not disclose or suggest the recited basketball backboard and hoop assembly which is moved in the direction of the recited longitudinal movement of the recited support arm from the recited first position inside a structure to the recited second position outside the structure.

Applicant further submits that Jackan does not disclose or suggest the recited basketball backboard and hoop assembly which is moved to the recited in-use position and the recited basketball backboard which is deployed to the recited upright position subsequent to the recited basketball backboard and hoop assembly being moved outside the structure.

In view of the foregoing, Applicant respectfully submits that Jackan does not disclose or suggest many of the specifically recited features of independent Claim 48. In view

of the foregoing, Applicant respectfully submits that the present invention, as defined by independent Claim 48, is patentable over Jackan. Applicant further submits that Claims 49-51, 56, and 57, which Claims 49-51, 56, and 57 depend directly from independent Claim 48, so as to include all of the limitations of Claim 48, are also patentable as said Claims 49-51, 56, and 57 depend from allowable subject matter. In view of the foregoing, allowance of Claims 49-51, 56, and 57 is respectfully requested.

III. THE DOUBLE PATENTING REJECTIONS:

The Examiner asserts that Claims 1-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-63 of U.S. Patent No. 6,736,741. The Examiner further asserts that Claims 1-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-17 of U.S. Patent No. 6,508,730.

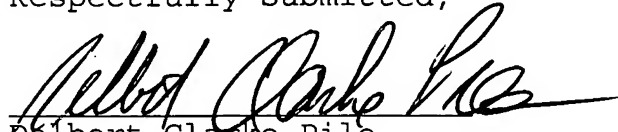
Applicant has previously submitted a Terminal Disclaimer regarding U.S. Patent No. 6,736,741 and a Terminal Disclaimer regarding U.S. Patent No. 6,508,730 in this application. The above-referenced Terminal Disclaimers were filed on June 24, 2004 along with a Preliminary Amendment also filed on June 24, 2004. A copy of the Terminal Disclaimer regarding U.S. Patent No. 6,736,741, filed on June 24, 2004, is submitted herewith. A copy of the Terminal Disclaimer regarding U.S. Patent No. 6,508,730, filed on June 24, 2004, is also submitted herewith. A copy of the return receipt postcard, evidencing the Office's receipt of the Preliminary Amendment, the Terminal Disclaimer regarding U.S. Patent No. 6,736,741, and the Terminal Disclaimer regarding U.S. Patent No. 6,508,730, is also submitted herewith.

In view of the fact that Applicant has previously submitted a Terminal Disclaimer regarding U.S. Patent No. 6,736,741 and a Terminal Disclaimer regarding U.S. Patent No. 6,508,730, in this application, withdrawal of the Examiner's obviousness-type double patenting rejection of Claims 1-47, over U.S. Patent Nos. 6,736,741 and 6,508,730, is respectfully requested.

IV. CONCLUSION:

In view of the foregoing, the application is deemed to be in condition for allowance and action to that end is respectfully requested. Allowance of pending Claims 1-7, 9, 11, 12, 15-18, 20-29, 31, 32, 35-40, and 45-59 is respectfully requested.

Respectfully Submitted,


Delbert Clarke Pile

- Encls.: - Declaration Under 37 C.F.R. §1.131 with attached Exhibits A, B, C, D, E, F, and G.
- Applicant's Statement of the Substance of the Examiner Interview
 - Copy of Terminal Disclaimer regarding U.S. Patent No. 6,736,741.
 - Copy of Terminal Disclaimer regarding U.S. Patent No. 6,508,730.
 - Copy of return receipt postcard evidencing receipt of the above-identified Terminal Disclaimers.
 - Return Receipt Postcard

October 24, 2005
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